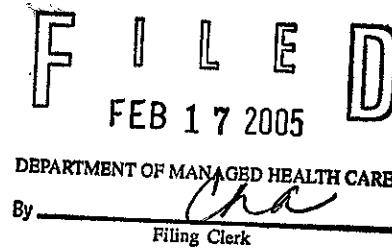


1 AMY L. DOBBERTEEN  
Assistant Deputy Director, Bar No. 155111  
2 DEBRA L. DENTON  
Assistant Chief Counsel, Bar No. 164482  
3 TERRY A. GERMAN  
Staff Counsel, Bar No. 177604  
4 CALIFORNIA DEPARTMENT OF  
MANAGED HEALTH CARE  
5 Office of Enforcement  
980 Ninth Street, Suite 500  
6 Sacramento, CA 95814-7243  
Telephone: (916) 323-0435  
7 Facsimile: (916) 323-0438



8 Attorneys for Complainant

9  
10 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE  
11 OF THE STATE OF CALIFORNIA

12 IN THE MATTER OF: ) DMHC No.: 05-060  
13 BLUE CROSS OF CALIFORNIA, ) OAH No.:  
14 Respondent. ) **ORDER FOR DISCONTINUANCE OF**  
15 ) **INJURIOUS PRACTICES AND**  
16 ) **NOTICE OF RIGHT TO HEARING**  
17 ) (Health and Safety Code §§ 1367(d), 1367  
(e), 1373.96, 1391.5)

18 **TO: Blue Cross of California**  
19 **21555 Oxnard Street**  
20 **Woodland Hills, CA 91367**

21 The Director of the Department of Managed Health Care, by and through her  
22 designee, Assistant Deputy Director Amy L. Dobberteen, after investigation, determines as  
23 follows:

24 **PARTIES**

25 1. The Director of the Department of Managed Health Care is vested with the  
26 responsibility to administer and enforce the Knox-Keene Health Care Service Plan Act of  
27 1975, Health and Safety Code section 1340 *et seq.* ("Knox-Keene Act"). The intent and  
28 purpose of the Knox-Keene Act is to promote the delivery and quality of health and medical

1 care to the people of California who enroll in a health care service plans by, among other  
2 things, ensuring that subscribers and enrollees receive available and accessible health and  
3 medical services rendered in a manner providing continuity of care. (Health and Safety  
4 Code section 1342(g).)

5 2. Respondent Blue Cross of California ("Blue Cross") is a health care service  
6 plan licensed under the Knox-Keene Act, license number 933 0415, and is regulated by the  
7 Department of Managed Health Care. Blue Cross's principal place of business is located at  
8 21555 Oxnard Street, Woodland Hills, California 91367.

### 9 STATUTORY AUTHORITY

10 3. A health care service plan is required to furnish services in a manner providing  
11 continuity of care and ready referral of patients to other providers at times as may be  
12 appropriate and consistent with good professional practice. (Health and Safety Code section  
13 1367(d).)

14 4. A health care service plan is required to provide all services in a manner to be  
15 readily available at reasonable times to each enrollee consistent with good professional  
16 practice. (Health and Safety Code section 1367(e)(1).)

17 5. A health care service plan is required to establish that basic health care services  
18 are readily available and accessible to each of the plan's enrollees. (California Code of  
19 Regulations, title 28, section 1300.67.2.)

20 6. A health care service plan shall at the request of an enrollee provide the  
21 completion of covered services by a terminated provider or by a nonparticipating provider as  
22 required by the continuity of care provisions of the Knox Keene Act. (Health and Safety  
23 Code section 1373.96(a).)

24 7. The completion of covered services shall be provided by a terminated provider  
25 to an enrollee who at the time of the contract's termination, was receiving services from that  
26 provider for acute conditions, serious chronic conditions, pregnancy, terminal illnesses, care  
27 for newborn children up to 36 months of age and the performance of surgery and other  
28 approved procedures by the plan. (Health and Safety Code section 1373.96(b) and (c).)

1           8.     The Director is empowered to enforce compliance with this Act by Health and  
2 Safety Code section 1391.5(a), which provides:

3                 If, after examination or investigation, the director has  
4 reasonable grounds to believe that irreparable loss and injury  
5 to the plan's enrollee or enrollees occurred or may occur as a  
6 result of any act or practice unless the director acts  
7 immediately, the director may, by written order, addressed to  
8 that person, order the discontinuance of the unsafe or  
9 injurious act or practice. **The order shall become effective  
10 immediately, but shall not become final except in  
11 accordance with this section.** [emphasis added]

12           9.     A plan subject to an order issued pursuant to Health and Safety Code section  
13 1391.5 may request a hearing pursuant to Health and Safety Code section 1391.5(b), which  
14 provides:

15                 No order issued pursuant to this section shall become final  
16 except after notice to the affected person of the director's  
17 intention to make the order final and of the reasons for the  
18 finding. The director shall also notify that person that upon  
19 receiving a request for hearing by the plan, the matter shall be  
20 set for hearing to commence with [sic] 15 business days after  
21 receipt of the request, unless that person consents to have the  
22 hearing commence at a later date.

23           10.    If no hearing is requested within fifteen (15) days after the mailing or service  
24 of the required notice, and none is ordered by the director, the order shall become final on  
25 the 15th day without a hearing and shall not be subject to review by any court or agency.  
26 (Health and Safety Code section 1391.5(c).)

#### 27                 **VIOLATIONS OF KNOX-KEENE ACT BY BLUE CROSS**

28           11.    In 2004, approximately 8,600 Blue Cross commercial enrollees were admitted  
to Pomona Valley Medical Center.

          12.    In or about the week of February 7, 2005, Blue Cross directed its network of  
doctors to cease and discontinue admitting patients to Pomona Valley Medical Center after  
February 15, 2005.

          13.    Effective February 15, 2005, Blue Cross terminated its provider contract with  
Pomona Valley Medical Center.

///

14. At the time the provider contract with Pomona Valley Medical Center was terminated, several hundred Blue Cross enrollees had been approved and authorized by Blue Cross to receive treatment at Pomona Valley Medical Center.

15. Prior to, or at the time of, the termination of the provider contract with Pomona Valley Medical Center, Blue Cross failed to make arrangements with alternative providers to assure that enrollees would be able to obtain services at reasonable times consistent with good professional practice as required by Health and Safety Code section 1367(d). Consequently, many Blue cross enrollees will be deprived of continuity of care and will have their approved treatments disrupted. This practice is not appropriate or consistent with good professional practice.

16. Blue Cross has failed to demonstrate that health care services will be readily available after the termination of the Pomona Valley Medical Center contract as required by Health and Safety Code section 1367(e)(1), and California Code of Regulations, title 28, section 1300.67.2. Specifically, Blue Cross has not demonstrated that alternative hospitals will provide the same services or be able to absorb and reasonably serve the Blue Cross enrollees that previously obtained services at Pomona Valley Medical Center. Additionally, Blue Cross has not demonstrated that Blue Cross provider groups servicing the impacted enrollees will be able to admit Blue Cross enrollees at alternative hospitals to Pomona Valley Medical Center.

## ORDER

Based on the foregoing, the Director finds that Respondent Blue Cross has violated Health and Safety Code sections 1367(d), 1367(e), 1373.96 and California Code of Regulations, title 28, section 1300.67.2.

**THEREFORE**, the Director, pursuant to Health and Safety Code section 1391.5,  
**ORDERS AS FOLLOWS:**


1. Respondent Blue Cross shall rescind any and all notices provided to its network of providers whereby the providers were instructed to cease admitting Blue Cross enrollees to Pomona Valley Medical Center;

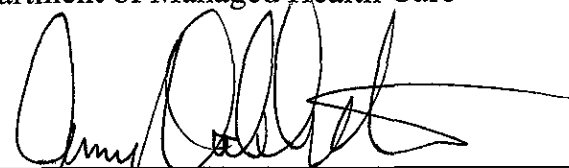
1           2.       Respondent Blue Cross shall rescind any and all notices provided to its  
2 enrollees whereby the enrollees were advised that they could no longer obtain services from  
3 Pomona Valley Medical Center;

4           3.       Respondent Blue Cross shall continue to authorize and allow its network of  
5 providers to authorize and admit Blue Cross enrollees to Pomona Valley Medical Center;  
6 and

7           4.       This Order shall be effective immediately and shall continue in full force and  
8 effect until further order of the Director.

9  
10 Dated: February 17, 2005

11  
12 By:   
13 LUCINDA EHNES, Director  
14 Department of Managed Health Care

15  
16 By:   
17 AMY L. DOBBERTEN  
18 Assistant Deputy Director  
19 Office of Enforcement  
20  
21  
22  
23  
24  
25  
26  
27  
28